FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.624 OF 2004

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.P.B.Shah for petitioners.
Mr.A.A.Joshi for respondents.

CORAM : H.L GOKHALE, J

DATED : 27th June 2006

P.C. :

1. Heard Mr.Shah in support of this petition. Mr.Joshi appears for the respondents.

2. This petition by the original defendants seeks to challenge the order dated 22nd October 2003 passed by the III learned Additional District Judge, Pandharpur, whereby he has restrained the original defendants from alienating the suit properties till the disposal of the suit. The suit is filed by the respondents herein seeking a share in the properties of the

family. The parties are mohammedan. In the suit the injunction is sought. The trial Court granted it partly. Being aggrieved by that order, the appeal is preferred by the respondents herein, which has come to be allowed.

3. Mr.Shah appearing for the petitioners who are the original defendants mainly raised a dispute about the part of the suit lands i.e. suit land Nos.1231 and 1232. He contended that these lands were given to the 1st petitioner by her husband in partition. The appellate order, however, clearly records in para-8 that the original defendants have not raised any such plea that the deceased husband of the 1st petitioner had gifted the land bearing No.1231. That being so, the learned Judge thought it fit to retain the properties as they

were by granting the injunction.

4. Mr.Shah raised a point that the respondents have not made out any prima facie case. Their case is undoubtedly of the property being family property and they are claiming a share. That being so, it is appropriate that the properties must be retained intact and should not be allowed to be altered till the hearing and disposal of the suit. Therefore, there was nothing wrong in the order passed by the Appellate Court.

5. The suit is of the year 2000 and is pending in the Court of the Civil Judge, Senior Division, Pandharpur. The Court will endeavour to hear and decide the suit at the earliest.

6. Petition dismissed.

(H.L.GOKHALE, J.)